

FILED

United States District Court  
Albuquerque, New Mexico

Mitchell R. Elfers  
Clerk of Court

UNITED STATES DISTRICT COURT  
for the  
District of New Mexico

United States of America

v.

MARVIN WAUNEKA  
YOB 1984

)

Case No. 24-MJ-1812

)

)

*Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 14, 2024 in the county of McKinley in the  
District of New Mexico, the defendant(s) violated:

*Code Section**Offense Description*

|                       |  |
|-----------------------|--|
| 18 U.S.C. § 1153      | Major Crimes Act                           |
| 18 U.S.C. § 1112      | Involuntary Manslaughter (2 Counts)        |
| 18 U.S.C. § 113(a)(6) | Assault Resulting in Serious Bodily Injury |

This criminal complaint is based on these facts:

See attached affidavit, incorporated by reference.

Continued on the attached sheet.

  
\_\_\_\_\_  
Complainant's signature

Samantha Yazzie, Criminal Investigator

\_\_\_\_\_  
Printed name and title

Telephonically sworn and electronically signed.

Date: 12/09/2024

  
\_\_\_\_\_  
Judge's signature

City and state: Albuquerque, New Mexico

Hon. John F. Robbenhaar, U.S. Magistrate Judge  
\_\_\_\_\_  
Printed name and title

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

VS

MARVIN WAUNEKA  
Year of birth: 1984

Case No. \_\_\_\_\_

AFFIDAVIT IN SUPPORT OF PROBABLE  
CAUSE ARREST

AFFIDAVIT IN SUPPORT OF A  
CRIMINAL COMPLAINT AND ARREST WARRANT

1. I, Samantha Ann Yazzie, Criminal Investigator for the Navajo Nation Department of Public Safety, being duly sworn, depose and state:

INTRODUCTION AND INVESTIGATOR BACKGROUND

2. I make this affidavit in support of a Criminal Complaint and Arrest Warrant for Marvin Albert WAUNEKA. (hereinafter “WAUNEKA”) for two counts of Involuntary Manslaughter in Indian Country, in violation of 18 U.S.C. §§ 1153 and 1112 and one count of Assault Resulting in Serious Bodily Injury in Indian Country, in violation of 18 U.S.C. §§ 1153 and 113(a)(6).

3. I am currently a Criminal Investigator (CI) with the Navajo Nation Division of Public Safety (NDPS) where I have been cross commissioned by the Bureau of Indian Affairs and possesses a Special Law Enforcement Commission (SLEC), and a Special Deputation with the Federal Bureau of Investigation and as such was vested with the authority to investigate violations of Federal Laws, including Title 18, United States Code. I have been a CI with NDPS for fourteen years. Prior to this, I served and have been employed as a Police Officer with the Navajo Nation Police Department (NPD) for six years. I have attended and have graduated from the Criminal

Investigator Training Program (CITP) in Glynnco, Georgia. I also have on-the-job training from other criminal investigators, special agents, and Assistant United States Attorneys in the investigations of various crimes that range from aggravated assaults, firearms violations, motor vehicle accidents, drug trafficking, and homicides. I have gained experience in the conduct of such investigations through previous case investigations, formal training, and in consultation with law enforcement partners in local, state, tribal, and federal law enforcement agencies. As a Federal Investigator, I am authorized to investigate violations of the laws of the United States and have authority to execute criminal complaints and search warrants issued under the authority of the United States.

4. The facts in this affidavit come from my personal observations and participation in this investigation, my training and experience, and information obtained from other investigators and witnesses. Because this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included each and every fact known to me concerning this investigation. I have set forth facts that I believe are sufficient to establish probable cause for the requested warrant.

#### **SUMMARY OF PROBABLE CAUSE**

5. On November 14, 2024 at approximately 1:48 PM, a call was received at the police dispatch office in Window Rock, Arizona, regarding a single vehicle rollover. The location was at mile marker 5, on Navajo Route 54 (Coal Mine Road) in McKinley County east of Tse Bonito, New Mexico. The caller, WITNESS 1, stated that a vehicle was driving fast and drove off the road and flipped. WITNESS 1 further stated that a male subject got out of the vehicle. WITNESS 1 had to drive to another location for cellphone service to call for police and ambulance services.

6. Upon arrival of the emergency responders, there were (3) three individuals observed still inside the vehicle in the back seat. There was a total of (5) five occupants in the

vehicle at the time of the rollover. Two of the occupants, John Doe 1 and Jane Doe were pronounced deceased at the scene. Three occupants, including John Doe 2, John Doe 3, and Marvin WAUNEKA, were transported to the emergency room in Fort Defiance, Arizona.

7. A 2016 Silver Chevrolet Equinox, vehicle license plate CGT2775 (Arizona), VIN 2GNALCEK1G6116484, was located at the scene of the crash site. The vehicle license plate number was queried and found to be registered to Marvin Albert WAUNEKA (YOB: 1984).

8. The vehicle involved in the crash sustained serious damage, including a detached roof. Much of the contents of the vehicle was thrown out of the vehicle during the crash. I observed a clear plastic bottle labeled as "Caliber Vodka", 80 Proof laying on the dirt next to Jane Doe's hand.

9. Navajo Police Sergeant Begay responded to the scene of the crash. According to his supplemental report, Sgt. Begay indicated upon his arrival to the scene, he spoke to the front seat passenger, John Doe 2. John Doe 2 informed SGT BEGAY that WAUNEKA was the driver and that he told WAUNEKA to slow down. John Doe 2 stated that he observed the speedometer to be 95 MPH and told WAUNEKA to slow down. John Doe 2 further stated that WAUNEKA was drinking from a large bottle.

10. SGT BEGAY also spoke to the eyewitness of the rollover, WITNESS 1. She stated that the driver is wearing a black shirt and blue jeans. According to Sgt. Begay's report, Sgt. Begay observed that WAUNEKA was wearing a black shirt and blue jeans.

11. On November 15, 2024, I spoke to Jane Doe's daughter, WITNESS 2, at the Criminal Investigations Office. WITNESS 2 stated that she called Jane Doe's cellphone moments before the rollover on November 14, 2024, using video call. WITNESS 2 said she Jane Doe in the vehicle with other occupants. Jane Doe told her she caught a ride and was almost home. WITNESS

2 said Jane Doe turned her phone around and showed the driver. WITNESS 2 said the driver turned around and said "hi" to her. WITNESS 2 described the driver as having dark hair and a mustache/beard. WITNESS 2 did not know the driver.

12. On November 15, 2024, WITNESS 2 also informed me that John Doe 3 was flown out to Flagstaff Medical Center. She stated that John Doe 3 sustained a spinal fracture, fractured femur, a broken rib, and a broken ankle.

13. During my investigation, I observed WAUNEKA at the hospital. I observed that he had dark hair and a mustache/beard that matches WITNESS 2's description of the driver she saw when she called Jane Doe. While I was at the hospital, I, along with agents from the Federal Bureau of Investigations, spoke to medical staff caring for WAUNEKA. According to the medical staff, WAUNEKA had a .298 BAC when he arrived at the hospital.

14. Based on my review of WAUNEKA's criminal history, I determined he has multiple DWI incidents as well as a history of failure to appear in state court.

15. Based on census enrollment data, WAUNEKA is an enrolled member of the Navajo Nation, a federally recognized tribe.

16. Upon information and belief, the location of the crash was within the exterior boundaries of the Navajo Nation.

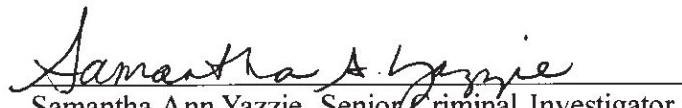
### **CONCLUSION**

17. Based on the foregoing, there is probable cause to believe that WAUNEKA violated 18 U.S.C. §§ 1153 and 1112, Involuntary Manslaughter in Indian Country (2 counts) and 18 U.S.C. §§ 1153 and 113(a)(6), Assault Resulting in Serious Bodily Injury in Indian Country (2 Counts). Your Affiant respectfully requests that this court issue an arrest Warrant for WAUNEKA.

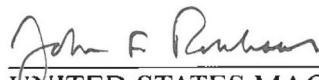
18. I swear that this information is true and correct to the best of my knowledge, information and belief.

19. This complaint was reviewed and approved by Assistant United States Attorney Mark A. Probasco.

Respectfully submitted by,

  
\_\_\_\_\_  
Samantha Ann Yazzie, Senior Criminal Investigator  
Criminal Investigations Navajo Nation

Subscribed electronically and sworn to me telephonically on  
December 9, 2024.

  
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE